

UNITED STATES COURT OF APPEALS May 17, 2010

FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

No. 10-5049

MICHAEL DEWAYNE BELL,

Defendant - Appellant.

ORDER

Before **LUCERO**, **TYMKOVICH**, and **GORSUCH**, Circuit Judges.

Mr. Bell is appealing from the district court's January 11, 2010 denial of his motion for new trial, filed in his criminal case. The court orders that this appeal be dismissed as untimely.

The district court's order was entered on January 11, 2010. Therefore, Mr. Bell's notice of appeal was due on or before January 25, 2010. *See* Fed. R. App. P. 4 (b) (1)(A) (notice of appeal in a criminal case due within 14 days). The notice of appeal was not filed until April 12. Although Mr. Bell asserts, in his notice of appeal, that he did not receive notice that his motion had been denied

until April 5, 2010, the time for appeal began to run when the order was entered.

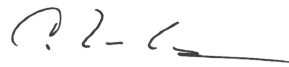
See Jenkins v. Burtzloff, 69 F. 3d 460, 461-62 (10th Cir. 1995). This court cannot extend the time for filing a notice of appeal. *See Fed. R. App. P. 4 (b) (4)*.

The timeliness requirement of Fed. R. App. P. 4 (b)(1)(A) is an inflexible claim processing rule. *See United States v. Garduño*, 506 F.3d 1287, 1291 (10th Cir. 2007). Because Mr. Bell's appeal is so very late, this court may raise Rule 4 (b)'s time bar *sua sponte*. *See United States v. Mitchell*, 518 F.3d 740, 750 (10th Cir. 2008).

APPEAL DISMISSED.

Entered for the Court
ELISABETH SHUMAKER, Clerk of Court

by:



Christine Van Coney
Counsel to the Clerk